

# TOBACCO TAX

To better serve you, the Arizona Department of Revenue offers online assistance and filing of your business taxes. To file your taxes online or to register to use the website, go to [www.aztaxes.gov](http://www.aztaxes.gov).

This publication is designed to provide general information to tobacco retailers and distributors plus assist taxpayers in complying with current laws and rules.

For complete details, refer to the Arizona Revised Statutes (ARS §42-3201; §42-3251; §42-3251.01 and §42-3301) and the Arizona Administrative Code. In case of inconsistency or omission in this publication, the language of the Arizona Revised Statutes and the Arizona Administrative Code will prevail.

If you are a retailer or distributor selling cigarettes or other tobacco products, you should read this brochure carefully. It provides you with important information regarding tobacco tax rates, including the tobacco tax rates on Indian reservations. It also provides information about the tax stamps that must be affixed to packages of cigarettes. It is essential that you are familiar with the tax stamps that must be affixed. Your cigarettes will be seized if you process unstamped or improperly stamped cigarettes and you will be subject to misdemeanor or felony charges.

Tax stamps may not be affixed to packages of cigarettes whose packaging differs from the requirements of the Federal Cigarette Labeling and Advertising Act. Specifically, this relates to cigarettes that were intended for sale outside the United States and have been re-imported or repatriated into this country (§ 42-3210).

It is illegal to sell cigarettes in packages of less than 20 cigarettes and a package of roll-your-own tobacco that contains less than .06 ounces except by establishments that only allow customers who are over the age of 21. (§ 36-798.04)

## **Delivery Sales**

Effective August 25, 2004, SB 1353 amended ARS § 42-3201 and added § 42-3221 through § 42-3230, which provide requirements for persons who sell tobacco products to Arizona consumers through delivery sales (sales for which orders are taken over the telephone, Internet, mail, or other voice transmission method or online service) and shipped to the consumer by the seller or a third-party service. Sellers will be required to comply with age verification and disclosure requirements under the new laws, aimed at preventing sales of tobacco products to Arizona minors. Furthermore, under the new provisions, if you acquire or possess any tobacco, cigarettes, or cigars on which Arizona luxury tax is owed but has not been paid, you are required to obtain an Arizona tobacco distributor's license and pay the appropriate tax. Please visit the department's website at [www.revenue.state.az.us](http://www.revenue.state.az.us) for more information.

## **Master Settlement Agreement**

SB 1310 was enacted on May 19, 2003, & became effective August 18, 2003. This bill established ARS §44-7111, which prohibits the sale of any and all cigarettes (including roll-your-own tobacco) in Arizona not listed in the Cigarette Directory, which is maintained by the Arizona Attorney General's Office. It is now unlawful for any person to affix a stamp to a cigarette package, or sell or possess for sale, cigarettes of a manufacturer or brand family not included in the directory. The Directory is located on the Arizona Attorney General's website at [www.ag.state.az.us](http://www.ag.state.az.us).

## **Luxury Tax Provisions**

In addition to the general Luxury Tax, there are two separate taxes imposed, the Tobacco Tax for Health Care and the Indian Reservation Tobacco Tax. The applicability of these taxes depends on the location of the sale, type of buyer and type of seller. Generally, the Tobacco Tax for Health Care purposes is applicable for sales made off the reservation, and the Indian Reservation Tobacco Tax is applicable for sales made on reservations to non-tribal members. The tax rates are the same for both taxes. The revenues from these taxes support the Tobacco Tax and Health Care Fund.

## **Current Tobacco Tax Rates**

The following are the combined rates of the general Luxury Tax and the Tobacco Tax for Health Care.

Item	Total Tax Rate
Cigarettes (per 20 pack)	\$ 1.18
per individual cigarette	\$.059
Smoking tobacco, snuff, etc.	\$.133 per oz.
Cavendish plus plug or twist	\$.033 per oz.
Small cigars	\$.263 per 20
(weighing not more than 3 lbs. per 1000)	
All other cigars	\$.13 per 3
(retailing at not more than \$.05 each)	
All other cigars	\$.13 each
(retailing at more than \$.05 each)	

## **Indian Reservation Tobacco Tax**

The Indian Reservation Tobacco Tax is a tax on the consumer, not the seller and generally applied to the sale on an Indian reservation of cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco to non-Indians.

The Indian Reservation Tobacco Tax does **not** apply to cigarettes and other tobacco products sold on a reservation by an Indian tribe, by an Indian retailer who is an enrolled member of the tribe, or by a federally licensed Indian trader to enrolled members of the tribe for whose benefit the reservation was established. The Indian Reservation Tobacco Tax also does not apply if the full luxury tax has otherwise been paid. Non-Indian retailers on a reservation pay the full luxury tax of \$1.18 for a pack of 20 cigarettes on sales to non-Indians. On the basis of tribal membership, each tribe has been allocated a maximum number of tax-

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exempt cigarettes that can be sold annually on a reservation to enrolled members of the tribe by an Indian tribe, an Indian retailer, or a federally licensed Indian trader. This annual allocation is divided into monthly allocations, and distributors are notified each month as to the maximum number of tax-exempt cigarettes that can be sold during that month to each Indian tribe and to each Indian retailer registered with the Department of Revenue.

Indian Tribes may impose their own tobacco tax or similar levy. When an Indian tribe has imposed a tribal tax, distributors are notified and provided with information on how to proceed and how to stamp cigarettes.

## Indian Reservation Tobacco Tax Rates

Item	Total Tax Rate
Cigarettes (per 20 pack)	\$1.00
per individual cigarette	\$ .05
Smoking tobacco, snuff, etc.	\$ .113 per oz.
Cavendish plus plug or twist	\$ .028 per oz
Small cigars	\$ .223 per 20
(weighing not more than 3 lbs. per 1000)	
All other cigars	\$ .11 per 3
(retailing at not more than \$.05 each)	
All other cigars	\$ .11 each
(retailing at more than \$.05 each)	

Reservation retailers are required to complete the Reservation Retailers Monthly Report, Form 805, which must be filed with the Department of Revenue no later than the 20<sup>th</sup> day of the month following the month for which the return covered. This report reflects the cigarette and other tobacco sales, including the sale of tax-free cigarettes.

## Tax Stamps

Distributors initially pay the appropriate taxes to the Department of Revenue for the sale of cigarettes by obtaining tax stamps from the Department of Revenue to affix to the cigarettes reflecting that the tax has been paid. There are three different stamps to be affixed to cigarettes. The distributor affixes the stamps on all packages of cigarettes that are to be sold. Three factors are considered when determining which stamp is to be affixed to a package of cigarettes, as follows:

- Location of Sale
- Type of Seller
- Type of Buyer

The following are the three types of stamps to be affixed.

1. **Blue Stamp** (General luxury tax stamp)
2. **Red Stamp** (Indian Reservation luxury tax stamp)
3. **Green Stamp** (Indian Reservation tax-free stamp)

The **blue** stamp is for the full amount of the tax, e.g., \$1.18 per pack of 20 cigarettes. This stamp is affixed to all cigarettes **except those to be sold by Indian retailers on their own reservations. Blue stamped cigarettes are the only cigarettes that may be in retail outlets off the reservation or for sale off the reservation. Retailers off the**

**reservation may not buy red stamped or green stamped cigarettes for resale.**

The **red** stamp is to be affixed to cigarettes to be sold *on* a reservation, by Indian tribes or Indian retailers to anyone that is not a Tribal member. This stamp denotes the Indian Reservation Tobacco Tax, \$1.00 per pack of 20 cigarettes, has been paid.

**No red stamped cigarettes may be in retail outlets off the reservation or for sale off the reservation. Also, Indian retailers may not purchase for sale red stamped cigarettes from retailers on other reservations.**

The **green** stamp is to be affixed to cigarettes that **may** be sold tax free, according to the allocation formula, on a reservation by an Indian tribe, a federally licensed Indian trader, or by an authorized Indian retailers **to enrolled members of the tribe.** Indian retailers must be registered with the Department of Revenue to sell tax-free. An application form (DOR 74-2039) must be completed and approved to be registered as an authorized retailer. **No green stamped cigarettes may be in retail outlets off the reservation or for sale off the reservation. Also, Indian retailers may not purchase for resale green stamped cigarettes from retailers on other reservations.**

## Other Tobacco Products

Other Tobacco Products (cigars, smoking tobacco and Cavendish plus plug and twist) are affected by these luxury tax provisions, but require no stamps. The distributor will apply the additional taxes before selling the product to the consumer. The Department will audit these products to see if the applicable taxes have been paid by verifying receipts/invoices for purchases made.

## Reporting Requirements

On forms provided by the Department, every Cigarette/Tobacco Distributor shall file a monthly report on or before the 20<sup>th</sup> day of the following month for the preceding month's business.

## Frequently Asked Questions

**Q. What are my responsibilities as a tobacco retailer?**

A. You are responsible to ensure that the cigarettes you sell are properly stamped. Check your inventory as you receive it to ensure that the stamped cigarettes are correct for your business and your customers. Any unstamped or improperly stamped cigarettes in your possession will result in a seizure of those cigarettes.

**Q. How does the department investigate the use of stamps in retail store and what are the penalties for processing or selling unstamped or improperly stamped cigarettes?**

A. The department sends investigators into the field to visually check inventory on display. They may also check the stock in inventory and invoices /receipts for purchases. If they find unstamped or improperly stamped cigarettes, they will seize them. (§42-1124).

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The department may also file a misdemeanor or felony complaint. **§42-1127 makes it a class 5 felony for a person, other than an Arizona Licensed Distributor, to be in possession of ten thousand or more unstamped or improperly stamped cigarettes.** If they determine the cause is distributor error, you may be instructed to return the product to your distributor. The investigators will document their finding in a site report.

- Q. What should I do if I see someone selling unstamped or improperly stamped cigarettes?**
- A. Report these transactions to the Department's Criminal & Civil Investigations Tobacco Unit at (602) 542-4023.
- Q. What items can be inspected to determine whether the applicable taxes have been paid?**
- A. **All tobacco products**, including those not displayed for sales, may be inspected to determine whether the applicable taxes have been paid. Invoices/receipts for each purchase or shipment of any tobacco products received must be retained for two years. All persons engaging in the sales of tobacco products must either be an **Arizona Licensed Tobacco Distributor**, or purchase tobacco products from an **Arizona Licensed Tobacco Distributor**.

## **For Additional Information, call:**

Arizona Luxury Tax Unit .....(602) 716-7808  
Fax .....(602) 716-7998

## **For Hearing Impaired– TDD only:**

Phoenix .....(602) 542-4021  
Toll free from area codes 520 & 928 ....(800) 397-0256

## **Send Written Correspondence to:**

Arizona Department of Revenue  
Tobacco Tax Section  
1600 W Monroe  
Phoenix AZ 85007

## **Internet Addresses**

Department of Revenue ..... [www.revenue.state.az.us](http://www.revenue.state.az.us)  
AZ Attorney General's Office ..... [www.ag.state.az.us](http://www.ag.state.az.us)

This publication is available in an alternative format upon request.